

No. 14-1144 EC

¹ All references to “CSR” are to the Missouri Code of State Regulations, as current with amendments included in the Missouri Register through the most recent update.

Findings of Fact

1. Conrad was a board member of a charter school, the Academy of Integrated Arts (“the School”) until August 1, 2013.
2. On January 29, 2014, the MEC mailed a reminder to Conrad,² stating that her name had been submitted as a person who must file a statement and that the statement would be due on May 1, 2014.
3. On April 15, 2014, the MEC mailed a second reminder to Conrad providing the same information.
4. May 1, 2014, was not a Saturday, Sunday, or official state holiday.
5. On May 5, May 23, and June 11, 2014, the MEC mailed letters to Conrad stating that the MEC had not received her statement.
6. Conrad filed her statement with the MEC on June 11, 2014.

Conclusions of Law

We have jurisdiction to hear the complaint.³ We perform the same role as the MEC, following the law it must follow and rendering, on the evidence heard, the decision of that agency.⁴ The MEC has the burden of proof.⁵

Section 105.483⁶ requires certain officials to file a statement. That statute does not list members of governing boards of charter schools among those required to file. Instead, § 160.400 applies the filing requirements of §§ 105.483, 105.485, 105.487, and 105.489 to such board members. Section 160.400.15 provides:

. . . . All members of the governing board of the charter school shall be considered decision-making public servants as defined in

² All letters were sent to Conrad’s correct address.

³ Section 105.961.3. Statutory references, unless otherwise noted, are to the 2013 Supplement to the Revised Statutes of Missouri. Sections changed in Senate Bill 844 (2010) are reprinted in the Supplement because parts of that bill were declared unconstitutional in *Legends Bank v. State*, 361 S.W.3d 383 (Mo. banc 2012).

⁴ See *Missouri Ethics Comm’n v. Wilson*, 957 S.W.2d 794, 798-99 (Mo. App. W.D. 1997).

⁵ *Heidebur v. Parker*, 505 S.W.2d 440, 444 (Mo. App., St.L. D. 1974).

⁶ RSMo 2000.

section 105.450 for the purposes of the financial disclosure requirements contained in sections 105.483, 105.485, 105.487, and 105.489.

Section 105.487⁷ states:

The financial interest statements shall be filed at the following times, but no person is required to file more than one financial interest statement in any calendar year:

(3) Every other person required by sections 105.483 to 105.492 to file a financial interest statement shall file the statement annually not later than the first day of May and the statement shall cover the calendar year ending the immediately preceding December thirty-first; provided that the governor, lieutenant governor, any member of the general assembly or any member of the governing body of a political subdivision may supplement such person's financial interest statement to report additional interests acquired after December thirty-first of the covered year until the date of filing of the financial interest statement;

(4) The deadline for filing any statement required by sections 105.483 to 105.492 shall be 5:00 p.m. of the last day designated for filing the statement. When the last day of filing falls on a Saturday or Sunday or on an official state holiday, the deadline for filing is extended to 5:00 p.m. on the next day which is not a Saturday or Sunday or official holiday. Any statement required within a specified time shall be deemed to be timely filed if it is postmarked not later than midnight of the day previous to the last day designated for filing the statement.

There is no dispute that Conrad was a member of the School board for a period of time in 2013. Section 105.487(3) required her to file a statement “not later than the first day of May and the statement shall cover the **calendar** year ending the immediately preceding December thirty-first[.]”⁸ Conrad does not deny she received the reminders of her need to file a statement.⁹

⁷ *Id.* (Emphasis added.)

⁸ Emphasis added.

⁹ Although the duty to timely file the statement is not conditioned upon receiving such notice. *See Graham-Alexander v. Missouri Ethics Comm’n*, No. 07-1046 EC (AHC Feb. 27, 2008).

In her response to the MEC's motion, Conrad states she had not filed her statement because she was no longer a board member at the time when it was due, and it was her understanding that it was unnecessary for her to file a statement. Once she learned that it was necessary to file a statement, she filed it. On that basis, she appealed the late filing fee.

None of these assertions changes Conrad's duty to file the statement as required by law. This Commission does not have the power to change the law.¹⁰ As an administrative agency, we have no authority to apply the doctrines of equity.¹¹ Although Conrad states that she still wants her hearing, she has shown no facts that dispute the MEC's evidence entitling it to a favorable decision. Conrad was required to file the statement on May 1, 2014, and failed to do so. She is liable for a late fee.

Next we determine the amount of the fee. Section 105.963.3 states:

The executive director shall assess every person required to file a financial interest statement pursuant to sections 105.483 to 105.492 failing to file such a financial interest statement with the commission a late filing fee of ten dollars for each day after such statement is due to the commission. The executive director shall send a notice to any person who fails to file such statement informing the individual required to file of such failure and the fees provided by this section. If the person persists in such failure for a period in excess of thirty days beyond receipt of such notice, the amount of the late filing fee shall increase to one hundred dollars for each day thereafter that the statement is late, provided that the total amount of such fees assessed pursuant to this subsection per statement shall not exceed six thousand dollars.

Conrad filed her statement on June 11, 2014, 41 days late. She is liable for a late fee of \$410.

¹⁰ *Lynn v. Director of Revenue*, 689 S.W.2d 45, 49 (Mo. banc 1985).

¹¹ *Soars v. Soars-Lovelace, Inc.*, 142 S.W.2d 866, 871 (Mo. 1940).

Summary

Conrad is liable for a \$10 assessment for each day she was late filing her statement. She filed 41 days late, and is liable for a \$410 late fee. We grant the motion for summary decision and cancel the hearing.

SO ORDERED on October 23, 2014.

\s\ Sreenivasa Rao Dandamudi
SREENIVASA RAO DANDAMUDI
Commissioner